

**Request Details**  
**Request Type : FOIA**

**Status : Initial Evaluation** **Due Date : N/A**  
🕒 0 (Never Started)



**Request Details**

Tracking Number : DON-NAVY-2017-009256  
Requester : Mr. robert hammond  
Organization : N/A  
Requester Has Account : Yes  
Email Address : (b) (6) @aol.com  
Phone Number : (b) (6)  
Fax Number : N/A  
Address : (b) (6)  
City : (b) (6)  
State/Province : (b) (6)  
Zip Code/Postal Code : (b) (6)

Submitted Date : 08/07/2017  
Last Assigned Date : 08/07/2017  
Fee Limit : \$150.00  
Request Track : Simple  
Due Date : N/A  
Assigned To : Chief of Naval Operations  
Last Assigned By : N/A

*FI-073/194*

**Submission Details**

Case File

Admin Cost

Assigned Tasks

Comments (2)

Review

**Request Handling**

Requester Info Available to the Public : No ☒

Request Track : Simple ☒

Fee Category : Other ☒

Fee Waiver Requested: Yes

Fee Waiver Status: Pending Decision

Expedited Processing Requested: No

Expedited Processing Status : N/A

Request Perfected : No ☒

Appellate Authority : OJAG14 ☒

Acknowledgement Sent Date: 8/7/17 ☒

Unusual Circumstances ? : No

5 Day Notifications: ☐

Litigation : No ☒

**Request Description**

Short Description :

**BUMED 2013 Quarterly Privacy Reports**

(b) (6) Navy Bureau of Medicine and Surgery, (BUMED) (b) (6) @mail.mil (b) (6) Subject: FOIA Request - Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports Requester Personal Reference Number: FOIA DON 17-D References: (a) The Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq., as amended, (b) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, "Your Right to Federal Records" (c) The Privacy Act ("PA") of 1974, 5 U.S.C. § 552a, et seq., as amended (d) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program (e) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program (f) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program (g) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation (h) GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act (i) Department of Justice Handbook for Agency Annual Freedom of Information Act Reports Dear Sir: I am submitting this request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq., as amended. If you deny all or any part of this request, please cite each specific exemption you think justifies your decision not to release the information and notify me of appeal procedures available under the law. References cited above apply. This confirms my conversation with Mr. (b) (6) of today who is on possession of the records that I am seeking. Thank you, sir. BACKGROUND. Pursuant to 42 U.S.C. 2000ee-1, DOD submits Quarterly (now semi-annual) Privacy Reports to Congress. The DOD report is consolidated and submitted by the Defense Privacy and Civil Liberties Office (DPCLO). FY 2014 and later reports may be found at <http://dpcl.d.defense.gov/Reports/>. RECORDS SOUGHT VIA FOIA. I am respectfully seeking all of the sub-unit/sub-element reports input subm

Description Available to the Public : No ☒

Has Description Been Modified? ☐

1962/2000

*Rec'd 8 Aug 17*

(b)(6), Navy Bureau of Medicine and Surgery, (BUMED) (b)(6)@mail.mil (b)(6) Department of the Navy via FOIA Online, <https://foiaonline.regulations.gov/> and donfoia-pa@navy.mil

Subject: FOIA Request - Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports Requester Personal  
Reference Number: FOIA DON 17-D References: (a) The Freedom of Information Act ("FOIA"), 5 U.S.C. &sect; 552 et seq.,  
as amended, (b) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General  
Services Administration of July 2011, "Your Right to Federal Records" (c) The Privacy Act ("PA") of 1974, 5 U.S.C. &sect; 552a

### Additional Information

Case # :  
Name of Local Command :  
Contract/Sol.# :  
Limit Request To Clearly Releasable Info : ☒ Select Limit Request To Clearly Releasable Info

### Attached Supporting Files

Attachments Available to the Public : ☒ No

Attached File	Type	Size (MB)	Remove
FOIA DON 17-D Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports_Redacted.pdf	PDF	0.29	<input checked="" type="checkbox"/>

### Upload Supporting Files

No attachments have been added.

**Garcia, Della W CIV USN BUMED FCH VA (US)**

---

**From:** (b) (6) CTR OPNAV, DNS-36 <(b) (6)@navy.mil>  
**Sent:** Tuesday, August 08, 2017 8:53 AM  
**To:** Garcia, Della W CIV USN BUMED FCH VA (US)  
**Cc:** DONFOIA-PA  
**Subject:** DON-NAVY-2017-009256  
**Attachments:** FOIA DON 17-D Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports.pdf; 2017-009256 Snap Shot.pdf  
**Signed By:** (b) (6)@navy.mil

Good Morning Ms. Garcia,

I hope all is well with you today. Our office received the attached FOIA Online request DON-NAVY-2017-009256. Can you please take a look and tell me if the request falls under your command's cognizance? Thank you for your assistance regarding this matter.

Sent on behalf of DNS-36 Director

V/r

(b) (6)

DNS-36 FOIA Support Specialist  
FOIA Service Line: (202) 685-0412  
Direct Line: (b) (6)  
DONFOIA-PA@navy.mil

**NOTICE**

~~FOR OFFICIAL USE ONLY (FOUO) - Privacy Act Data~~ - Privacy Sensitive - Any misuse or unauthorized disclosure may result in both civil and criminal penalties.

The information contained in this e-mail is subject to review in accordance with the Department of the Navy's acceptable use policy. All written communications fall under the records retention policy for official records and should accordingly be archived. If you have any questions regarding this notice, please contact the sender. Thank you.

**Garcia, Della W CIV USN BUMED FCH VA (US)**

---

**From:** (b) (6) @aol.com  
**Sent:** Tuesday, August 08, 2017 4:16 PM  
**To:** Garcia, Della W CIV USN BUMED FCH VA (US)  
**Cc:** (b) (6) CIV USN BUMED FCH VA (US); (b) (6) @aol.com  
**Subject:** [Non-DoD Source] Fwd: FOIA Request DON-NAVY-2017-009256 Submitted  
**Attachments:** FOIA DON 17-D Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports.pdf

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

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Dear Ms Garcia,

Please see the FOIAonline submission of this request, forwarded to Mr. (b) (6) yesterday for cross-reference to your files.

Thank you in advance for your prompt consideration of my request. Please let me know if there is any clarification or anything more that you need from me.

Thank you again.

With my respect,

Robert Hammond

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**From:** DONFOIA-PA@navy.mil  
**To:** (b) (6) @aol.com  
**Sent:** 8/7/2017 9:08:27 PM Eastern Standard Time  
**Subject:** FOIA Request DON-NAVY-2017-009256 Submitted

This message is to confirm your request submission to the FOIAonline application: View Request < Caution-  
<https://foiaonline.regulations.gov:443/foia/action/public/view/request?objectId=090004d2814dacd4> > . Request  
information is as follows:

\* Tracking Number: DON-NAVY-2017-009256  
\* Requester Name: robert hammond  
\* Date Submitted: 08/07/2017  
\* Request Status: Submitted  
\* Description: (b) (6) Navy Bureau of Medicine and Surgery (BUMED)

(b) (6) @mail.mil < Caution-mailto:(b) (6) @mail.mil > (b) (6) Subject: FOIA Request – Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports Requester Personal Reference Number: FOIA DON 17-D References: (a) The Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq., as amended, (b) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, "Your Right to Federal Records" (c) The Privacy Act ("PA") of 1974, 5 U.S.C. § 552a, et seq., as amended (d) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program (e) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program (f) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program (g) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation (i) GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act (j) Department of Justice Handbook for Agency Annual Freedom of Information Act Reports Dear Sir: I am submitting this request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq., as amended. If you deny all or any part of this request, please cite each specific exemption you think justifies your decision not to release the information and notify me of appeal procedures available under the law. References cited above apply. This confirms my conversation with Mr. (b) (6) of today who is on possession of the records that I am seeking. Thank you, sir. BACKGROUND. Pursuant to 42 U.S.C. 2000ee-1, DOD submits Quarterly (now semi-annual) Privacy Reports to Congress, The DOD report is consolidated and submitted by the Defense Privacy and Civil Liberties Office (DPCLO). FY 2014 and later reports may be found at Caution-http://dpcl.d.defense.gov/Reports/ < Caution-http://dpcl.d.defense.gov/Reports/ > . RECORDS SOUGHT VIA FOIA. I am respectfully seeking all of the sub-unit/sub-element reports input subm

**Garcia, Della W CIV USN BUMED FCH VA (US)**

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**From:** (b) (6) @aol.com  
**Sent:** Wednesday, August 09, 2017 8:59 PM  
**To:** Garcia, Della W CIV USN BUMED FCH VA (US)  
**Subject:** Re: [Non-DoD Source] Fwd: FOIA Request DON-NAVY-2017-009256 Submitted

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

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Dear Ms. Garcia,

Thank you for your prompt acknowledgement of my request.

It is truly refreshing and sincerely appreciate it.

With my best wishes for your continued success and my respect,

Robert Hammond

-----Original Message-----

**From:** Garcia, Della W CIV USN BUMED FCH VA (US) (US) (b) (6) @mail.mil>  
**To:** (b) (6) @aol.com>  
**Cc:** Martin, Brian K CIV USN BUMED FCH VA (US) (US) (b) (6) @mail.mil>  
**Sent:** Wed, Aug 9, 2017 9:40 am  
**Subject:** RE: [Non-DoD Source] Fwd: FOIA Request DON-NAVY-2017-009256 Submitted

Good morning.

I have received your request and will process it as quickly as possible.

v/r Della

Della W. Garcia  
FOIA/PA Paralegal Specialist  
Bureau of Medicine and Surgery  
Medical-Legal Affairs Office  
7700 Arlington Blvd Ste (b) (6)  
Falls Church, VA 22042-5124

COMM (b) (6)

(b) (6) @mail.mil < Caution-mailto (b) (6) @mail.mil >

~~FOR OFFICIAL USE ONLY (FOUO) - PRIVACY SENSITIVE~~. Any misuse or unauthorized disclosure may result in both civil and criminal penalties.

-----Original Message-----

From: (b) (6) @aol.com <Caution-mailto:(b) (6) @aol.com> [Caution-mailto:(b) (6) @aol.com <Caution-mailto:(b) (6) @aol.com?>]  
Sent: Tuesday, August 08, 2017 4:16 PM  
To: Garcia, Della W CIV USN BUMED FCH VA (US)  
Cc: (b) (6) CIV USN BUMED FCH VA (US) (b) (6) verance2013@aol.com <Caution-mailto:(b) (6) @aol.com>  
Subject: [Non-DoD Source] Fwd: FOIA Request DON-NAVY-2017-009256 Submitted

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

---

Dear Ms Garcia,

Please see the FOIAonline submission of this request, forwarded to Mr. (b) (6) yesterday for cross-reference to your files.

Thank you in advance for your prompt consideration of my request. Please let me know if there is any clarification or anything more that you need from me.

Thank you again.

With my respect,

Robert Hammond

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From: DONFOIA-PA@navy.mil <Caution-mailto:PA@navy.mil>  
To: (b) (6) @aol.com <Caution-mailto:(b) (6) @aol.com>  
Sent: 8/7/2017 9:08:27 PM Eastern Standard Time  
Subject: FOIA Request DON-NAVY-2017-009256 Submitted

This message is to confirm your request submission to the FOIAonline application: View Request < Caution-Caution-<https://foiaonline.regulations.gov:443/foia/action/public/view/request?objectId=090004d2814dacd4> < Caution-<https://foiaonline.regulations.gov:443/foia/action/public/view/request?objectId=090004d2814dacd4> > > . Request information is as follows:

\* Tracking Number: DON-NAVY-2017-009256

\* Requester Name: robert hammond

\* Date Submitted: 08/07/2017

\* Request Status: Submitted

\* Description: (b) (6) Navy Bureau of Medicine and Surgery, (BUMED) (b) (6) @mail.mil < Caution-mailto (b) (6) @mail.mil > < Caution-Caution-mailto (b) (6) @mail.mil < Caution-mailto (b) (6) @mail.mil? > > (b) (6) Subject: FOIA Request – Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports Requester Personal Reference Number: FOIA DON 17-D References: (a) The Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq., as amended, (b) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, "Your Right to Federal Records" (c) The Privacy Act ("PA") of 1974, 5 U.S.C. § 552a, et seq., as amended (d) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program (e) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program (f) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program (g) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation (i) GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act (j) Department of Justice Handbook for Agency Annual Freedom of Information Act Reports Dear Sir: I am submitting this request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq., as amended. If you deny all or any part of this request, please cite each specific exemption you think justifies your decision not to release the information and notify me of appeal procedures available under the law. References cited above apply. This confirms my conversation with Mr (b) (6) of today who is on possession of the records that I am seeking. Thank you, sir. BACKGROUND. Pursuant to 42 U.S.C. 2000ee-1, DOD submits Quarterly (now semi-annual) Privacy Reports to Congress, The DOD report is consolidated and submitted by the Defense Privacy and Civil Liberties Office (DPCLO). FY 2014 and later reports may be found at Caution-Caution-http://dpcld.defense.gov/Reports/ < Caution-http://dpcld.defense.gov/Reports/ > < Caution-Caution-http://dpcld.defense.gov/Reports/ < Caution-http://dpcld.defense.gov/Reports/ > > . RECORDS SOUGHT VIA FOIA. I am respectfully seeking all of the sub-unit/sub-element reports input subm





DEPARTMENT OF THE NAVY  
BUREAU OF MEDICINE AND SURGERY  
7700 ARLINGTON BOULEVARD  
FALLS CHURCH, VA 22042

IN REPLY REFER TO  
5720/F17-073  
Ser M00JE/17UM00J0194  
September 6, 2017

Mr. Robert Hammond

(b) (6)

Dear Mr. Hammond,

SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUEST – BUMED F17-073

I am responding to your Freedom of Information Act (FOIA) request of August 7, 2017 to the Chief of Naval Operations Freedom of Information Act office. Per your request, you are seeking FY 2013 Quarterly Privacy Act Reports including "forwarding correspondences thereof (whether by email, fax or other) and any attachments."

Subsequently, your request was assigned tracking number DON-Navy 2017-009256 and forwarded to the Bureau of Medicine and Surgery (BUMED) for action and direct response to you. I received your inquiry on August 8, 2017.

BUMED is in the process of gathering documents responsive to your request. Please consider this an interim response as we continue to process your request. We expect to complete the compilation of responsive documents by September 20, 2017.

There are no assessable fees associated with the processing of your request. If you have questions, my point of contact is Ms. Della W. Garcia, who may be contacted at

(b) (6) @mail.mil or (b) (6)

Sincerely,

P. A. MYERS  
Captain  
Judge Advocate General's Corps  
United States Navy  
Staff Judge Advocate  
By direction of the Chief,  
Bureau of Medicine and Surgery



DEPARTMENT OF THE NAVY  
BUREAU OF MEDICINE AND SURGERY  
7700 ARLINGTON BOULEVARD  
FALLS CHURCH, VA 22042

IN REPLY REFER TO

5720/F17-073

Ser M00JE/17UM00J0200

September 20, 2017

Mr. Robert Hammond

(b) (6)

Dear Mr. Hammond,

SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUEST – BUMED F17-073

This is a supplemental response to your Freedom of Information Act (FOIA) request of August 7, 2017 to the Chief of Naval Operations Freedom of Information Act office. In your request, you are seeking FY 2013 Quarterly Privacy Act Reports including "forwarding correspondences thereof (whether by email, fax or other) and any attachments."

Under the guidelines of the FOIA I have reviewed the responsive documents over which BUMED has cognizance, determined that they are releasable under FOIA and have enclosed them; however, certain identifiers have been removed in accordance with the Freedom of Information Act, 5 U.S.C. § 552 (b)(6) to prevent a clearly unwarranted invasion of personal privacy.

Additionally, BUMED does not possess documents responsive to your request for "forwarding correspondences thereof (whether by email, fax or other) and any attachments" as it follows the guidance established in the Department of the Navy Records Management Program which establishes policies and procedures for life cycle management (creation, maintenance, use, and disposition) of Navy records.

Since your request has been partially denied, you are advised of your right to appeal this determination in writing. Such an appeal, if any, should be addressed to:

Office of the Judge Advocate General (Code 14)  
Washington Navy Yard  
1322 Patterson Avenue  
Washington DC 20374-5066

The appeal must be received within 90 calendar days from the date of my letter and a copy of this correspondence should be attached, along with a statement regarding the basis of your appeal. It is recommended that the letter of appeal and the envelope both bear the notation, "Freedom of Information Act Appeal."


For this determination, you have the right to seek dispute resolution services from the DoD Navy Component FOIA Public Liaison, Mr. Chris Julka, at [Christopher.a.julka@navy.mil](mailto:Christopher.a.julka@navy.mil) or (703) 697-0031.

5720/F17-073  
Ser M00JE/17UM00J0194  
September 20, 2017

There are no assessable fees associated with the processing of your request. If you have questions, my point of contact is Ms. Della W. Garcia, who may be contacted at

(b) (6) @mail.mil or (b) (6)

Sincerely,



P. A. MYERS  
Captain  
Judge Advocate General's Corps  
United States Navy  
Staff Judge Advocate  
By direction of the Chief,  
Bureau of Medicine and Surgery

Enclosure: FY13 Quarterly Privacy Act Reports

**Yost, Adam B LCDR OJAG, Code 14**

---

**From:** Lattin, Grant E CIV OJAG, CODE 14  
**Sent:** Thursday, October 05, 2017 9:29  
**To:** Inch, Adam E LCDR OJAG, Code 14; Yost, Adam B LCDR OJAG, Code 14  
**Cc:** (b) (6) CDR OJAG, Code 14  
**Subject:** FW: [Non-DoD Source] Appeal ,DON-NAVY-2017-009256; also, BUMED F17-073 Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports  
**Attachments:** Appeal DON 17D FY 2013 Quarterly PA Reports.w attachments.pdf  
**Signed By:** (b) (6) @navy.mil

Looks like we have a new appeal from Mr. Hammond.

Grant Lattin  
Director, General Litigation Division  
OJAG (Code 14)

(b) (6)

-----Original Message-----

**From:** (b) (6) @aol.com [mailto:(b) (6) @aol.com]  
**Sent:** Thursday, October 05, 2017 9:14 AM  
**To:** Lattin, Grant E CIV OJAG, CODE 14; dam.inch@navy.mil  
**Cc:** Faison, Clinton F RADM OPNAV; (b) (6) mil@mail.mil  
**Subject:** [Non-DoD Source] Appeal ,DON-NAVY-2017-009256; also, BUMED F17-073 Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports

Appeal of FOIA Request – Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports

My Personal Reference Number: FOIA DON 17-D

DON Assigned Agency FOIA Case Number: DON-NAVY-2017-009256; also, BUMED F17-073

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**From:** DONFOIA-PA@navy.mil  
**To:** (b) (6) @aol.com  
**Sent:** 10/5/2017 8:57:19 AM Eastern Standard Time  
**Subject:** FOIA Request DON-NAVY-2018-000111 Submitted

This message is to confirm your request submission to the FOIAonline application: View Request  
<<https://foiaonline.regulations.gov:443/foia/action/public/view/request?objectId=090004d28162ef5f>> . Request  
information is as follows:

\* Tracking Number: DON-NAVY-2018-000111

\* Requester Name: robert hammond

\* Date Submitted: 10/05/2017

\* Request Status: Submitted

\* Description: This is an appeal of DON Assigned Agency FOIA Case Number: DON-NAVY-2017-009256;  
also, BUMED F17-073. Entering here to ensure that is electronically recorded, which has been problematic in the past. .  
Appeal of FOIA Request – Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports . Basis for Appeal. 1. I am  
appealing that the Records that I am seeking were in the possession of BUMED at the time that I sought them in my  
Request. 2. See FOIA Request at Enclosure 1. 3. See also and address as part of this appeal the questions for Mr. (b) (6)  
(b) (6) at Enclosure 3, noting that offices are not persons (and office designations can change over time). Those  
questions for Mr. (b) (6) are, quote: a. With respect, do you personally have knowledge of responsive records that  
existed at the time of my request that were not released? b. With respect, do you personally have knowledge of  
responsive records that were destroyed subsequent to my request? c. With respect, do you personally have knowledge  
of any Privacy Act Complaints that were not reported? d. With respect, do you recall the details of our telephone  
conversations? 4. I am appealing that BUMED did not conduct an adequate search for responsive records that at existed  
at the time of my request in a manner likely to locate all responsive records. BUMED has been advised to preserve all  
potentially responsive records and all records of any searches until judicial review. 5. I am appealing that, in addition to  
BUMED, responsive record were in the possession of DOD or one of its components at the time of my request. DOD,  
DON, BUMED conducted no searches for these records. 6. I am appealing that the Agency has improperly denied  
portions of my request under 5 U.S.C. 552(b)(6). 7. Please see and address as part of my appeal, the appellate  
authority's coordination with ODCMO regarding my correspondence seeking (prior to this appeal) DOD's position  
regarding Exemption 6. ....

=====

Robert Hammond

(b) (6)

(b) (6) @aol.com

October 5, 2017

Office of the Judge Advocate General

General Litigation Division (Code 14)

1322 Patterson Ave., SE, Suite 3000

Washington Navy Yard, DC 20374-5066

Via; <https://foiaonline.regulations.gov>

Subject: Appeal of FOIA Request – Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports

My Personal Reference Number: FOIA DON 17-D

DON Assigned Agency FOIA Case Number: DON-NAVY-2017-009256; also, BUMED F17-073

References: (a) The Freedom of Information Act (FOIA)

(b) The Privacy Act

(c) CFR 164.526

(d) DoD 5700.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program

(e) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation

(e) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011: "Your Right to Federal Records" (see <http://publications.usa.gov/USAPubs.php?PubID=6080> <<http://publications.usa.gov/USAPubs.php?PubID=6080>> )

(g) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program

(h) Department of Justice Freedom of Information Act Guide, May 2004 at Exemption 6  
<http://www.justice.gov/oip/foia-guide-2004-edition-exemption-6>

(i) GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act

Dear Sir:

This appeal is submitted under the references above for my FOIA request at Enclosure 1. The Agency's reply is at Enclosure 2.

My correspondence to Navy BUMED, including Vice Admiral Clinton F. Faison (b) (6) @mail.mil), and Admiral Terry. J. Moulton (b) (6) @mail.mil), is at enclosure 3. My correspondence to the DOD Office of the Deputy Chief Management Officer seeking, with deep respect and appreciation, the DOD policy regarding the (b)(5) exemption is at enclosure 4

This appeal will be timely for judicial review within twenty working days. Please preserve all records for judicial review. There are also other avenues for redress, particularly in the event that responsive records were deleted subsequent to my request.

BACKGROUND. Pursuant to 42 U.S.C. 2000ee-1, DOD submits Quarterly (now semi-annual) Privacy Reports to Congress. The DOD report is consolidated and submitted by the Defense Privacy and Civil Liberties Office (DPCLO). FY 2014 and later reports may be found at <http://dpcld.defense.gov/Reports>.

#### Records Sought Under the FOIA.

"I am respectfully seeking all of the sub-unit/sub-element reports input submissions to Navy BUMED for the four FY 2013 Quarterly Privacy Act Reports, including the forwarding correspondences thereof (whether by email, fax or other) and any attachments. FY 2013 began on October 1, 2012 and ended on September 30, 2013.

I am also seeking any FY 2013 data call emails governing reporting.

Mr. (b) (6) is in possession of these records, [as well as others in DOD].

I am also requesting that a copy of this FOIA Request (which is an agency record) be included as a responsive record integral to my Request."

#### Basis for Appeal.

1. I am appealing that the Records that I am seeking were in the possession of BUMED at the time that I sought them in my Request.
2. See FOIA Request at Enclosure 1.
3. See also and address as part of this appeal the questions for Mr. (b) (6) at Enclosure 3, noting that offices are not persons (and office designations can change over time). Those questions for Mr. (b) (6) are, quote:
  - a. With respect, do you personally have knowledge of responsive records that existed at the time of my request that were not released?
  - b. With respect, do you personally have knowledge of responsive records that were destroyed subsequent to my request?
  - c. With respect, do you personally have knowledge of any Privacy Act Complaints that were not reported?
  - d. With respect, do you recall the details of our telephone conversations?

4. I am appealing that BUMED did not conduct an adequate search for responsive records that at existed at the time of my request in a manner likely to locate all responsive records. BUMED has been advised to preserve all potentially responsive records and all records of any searches until judicial review.

5. I am appealing that, in addition to BUMED, responsive record were in the possession of DOD or one of its components at the time of my request. DOD, DON, BUMED conducted no searches for these records.

6. I am appealing that the Agency has improperly denied portions of my request under 5 U.S.C. 552(b)(6).

7. Please see and address as part of my appeal, the appellate authority's coordination with ODCMO regarding my correspondence seeking (prior to this appeal) DOD's position regarding Exemption 6. The appellate authority's final determination becomes the DOD position with respect to this appeal in any further proceedings.

8. BUMED, a component of DON and DOD, is improperly redacting under exemption (b)(6):

- a. Agency names;
- b. Ordinary building names;
- c. Military Treatment Facility names;
- d. Privacy Officer names.

9. I am appealing that the Agency did not provide records in the requested format as single PDF file by return email.

10. I am appealing that the Agency did not return a copy of my Request as part of their initial determination letter, which is a record sought in my Request.

Appellate Authority Action Requested. I am asking that:

- (1) each of the elements of the basis of my appeal be addressed separately;
- (2) each element of my appeal be sustained;
- (3) all records of agency searches and FOIA case files be brought fully into your appeal files;
- (4) my FOIA request be remanded back to the Agency for direct reply to me; and that,
- (5) I be granted new appellate rights following a subsequent reply by the Agency.

With my respect,

Robert Hammond

Enclosures:

- 1. Hammond FOIA Request DON 17-D; Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports



2. Agency Initial Determination Letter

3. Hammond email thread of Wed, Oct 4, 2017 6:36 am to (b) (6) Vice Admiral Clinton F. Faison and Admiral Terry. J. Moulton (and others in that thread)

4. Hammond email of Wed, Oct 4, 2017 3:26 pm to ODCMO seeking policy guidance on Exemption 6, with copies to Vice Admiral Clinton F. Faison (BUMED), Admiral Terry. J. Moulton (BUMED), Vice Admiral Rachael C. Bono (DHA) and Mr. (b) (6) (DHA) and others



DEPARTMENT OF THE NAVY  
OFFICE OF THE JUDGE ADVOCATE GENERAL  
1322 PATTERSON AVENUE SE SUITE 3000  
WASHINGTON NAVY YARD DC 20374

IN REPLY REFER TO:  
5720  
Ser 14/005  
Oct 5, 2017

Mr. Robert Hammond

(b) (6)

(b) (6) @aol.com

SUBJECT: APPEAL OF FREEDOM OF INFORMATION ACT (FOIA) REQUEST  
DON-NAVY-2017-009256 (F17-073); FOIA APPEAL DON-NAVY-2018-000464

This letter acknowledges receipt of your Freedom of Information Act (FOIA) appeal received in our office on Oct 4, 2017. Please refer to the file number DON-NAVY-2018-000464 for any future questions or correspondence concerning your appeal.

In fairness to all requesters, we process all appeals in the order in which they are received. Processing times may be affected by the number and complexity of pending appeals. For that reason, we are unable to provide an estimated completion date at this time. Your rights to judicial review will not be prejudiced by waiting for a substantive determination regarding your appeal. We will work as expeditiously as possible, however, to respond to your request within 20 working days as outlined in the FOIA regulations.

You may contact Ms. Wendy Winston at (b) (6) or (b) (6) @navy.mil if you have any questions concerning the processing of your appeal. Please provide your last name and the above assigned file number in any correspondence.

Sincerely,

Adam E. Inch  
LCDR, JAGC, USN

## Yost, Adam B LCDR OJAG, Code 14

---

**From:** Yost, Adam B LCDR OJAG, Code 14  
**Sent:** Wednesday, October 18, 2017 10:23  
**To:** (b) (6) @aol.com'  
**Cc:** Winston, Wendy A CIV OJAG, CODE 14; (b) (6) CIV OPNAV  
**Subject:** FOIA appeal of underlying FOIA request DON-NAVY-2017-009256  
**Signed By:** adam.yost@navy.mil

**Importance:** High

Tracking:	Recipient	Delivery	Read
	(b) (6) @aol.com'		
	Winston, Wendy A CIV OJAG, CODE 14	Delivered: 10/18/2017 10:23	
	(b) (6) CIV OPNAV	Delivered: 10/18/2017 10:23	Read: 10/18/2017 10:51

Mr. Hammond,

Good morning - my name is LCDR Adam Yost - I am the FOIA appeals branch head at Code 14.

This email is to inform you that our office is in receipt of your FOIA appeal relating to underlying request DON-NAVY-2017-009256. In FOIA Online, you actually created a NEW FOIA request for your appeal submission, which the system generated as DON-NAVY-2018-000111. However, to avoid confusion in the system, I am administratively creating the appeal of your 009256 request properly within the system, by clicking on the left side tab 'create appeal'. This allows the system to create an electronic appeal which is tied to the underlying FOIA request - thus, the correct appeal number for your records of underlying FOIA request DON-NAVY-2017-009256 is DON-NAVY-2018-000464. You may receive a system generated email from FOIA Online which notifies you of my action - that is normal for the system. I will therefore be closing DON-NAVY-2018-000111.

Again - this is purely administrative action to align your FOIA appeal to your underlying FOIA request, 009256. The date you previously submitted the request (which was actually your way of submitting an appeal) will be maintained for purposes of our timeline on completing your appeal - thus, none of your rights are prejudiced by this action - it is merely to align the system correctly.

Therefore, you should expect a FOIA appeal response from us by 2 November 17 (20 business days from the date of receipt of your appeal, 4 October).

Going forward, if you wish to submit an appeal of an underlying FOIA request in FOIA Online, please utilize the 'create appeal' tab on the left side when you're looking at your underlying FOIA request.

Thank you.

V/r,  
LCDR Yost

Adam B. Yost  
LCDR, JAGC, USN  
General Litigation (Code 14)

Office of the Judge Advocate General  
Phone: (202) 685-5398  
Email: adam.yost@navy.mil  
SIPR: adam.yost@navy.smil.mil

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## **Yost, Adam B LCDR OJAG, Code 14**

---

**From:** Winston, Wendy A CIV OJAG, CODE 14  
**Sent:** Wednesday, October 18, 2017 10:44  
**To:** Yost, Adam B LCDR OJAG, Code 14  
**Subject:** RE: [Non-DoD Source] FOIA Appeal DON-NAVY-2018-000464 Submitted  
**Signed By:** (b) (6) @navy.mil

Thanks!

-----Original Message-----

**From:** Yost, Adam B LCDR OJAG, Code 14  
**Sent:** Wednesday, October 18, 2017 10:29 AM  
**To:** Winston, Wendy A CIV OJAG, CODE 14  
**Subject:** FW: [Non-DoD Source] FOIA Appeal DON-NAVY-2018-000464 Submitted

Wendy,

No action on the below - this is the result of what I said in my email a few minutes ago to Mr. Hammond - I've already updated the number of the FOIA appeal on our folder - currently in the process of closing out his erroneous FOIA request (which was his attempt at an appeal), 000111.

Thanks.

V/r,

Adam B. Yost  
LCDR, JAGC, USN  
General Litigation (Code 14)  
Office of the Judge Advocate General  
Phone: (202) 685-5398  
Email: adam.yost@navy.mil  
SIPR: adam.yost@navy.smil.mil

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-----Original Message-----

**From:** foia@regulations.gov [mailto:foia@regulations.gov]  
**Sent:** Wednesday, October 18, 2017 10:16 AM  
**To:** (b) (6) @navy.mil; Winston, Wendy A CIV OJAG, CODE 14; Yost, Adam B LCDR OJAG, Code 14  
**Subject:** [Non-DoD Source] FOIA Appeal DON-NAVY-2018-000464 Submitted

This message is to notify you of a new appeal submission to the FOIAonline application. Appeal information is as follows:

- \* Appeal Tracking Number: DON-NAVY-2018-000464
- \* Request Tracking Number: DON-NAVY-2017-009256
- \* Requester Name: robert hammond
- \* Date Submitted: 10/18/2017
- \* Appeal Status: Submitted
- \* Description: This is an appeal of DON Assigned Agency FOIA Case Number: DON-NAVY-2017-009256; also, BUMED F17-073. Entering here to ensure that is electronically recorded, which has been problematic in the past. . Appeal of FOIA Request – Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports . Basis for Appeal. 1. I am appealing that the Records that I am seeking were in the possession of BUMED at the time that I sought them in my Request. 2. See FOIA Request at Enclosure 1. 3. See also and address as part of this appeal the questions for Mr. (b) (6) at Enclosure 3, noting that offices are not persons (and office designations can change over time). Those questions for Mr. (b) (6) are, quote: a. With respect, do you personally have knowledge of responsive records that existed at the time of my request that were not released? b. With respect, do you personally have knowledge of responsive records that were destroyed subsequent to my request? c. With respect, do you personally have knowledge of any Privacy Act Complaints that were not reported? d. With respect, do you recall the details of our telephone conversations? 4. I am appealing that BUMED did not conduct an adequate search for responsive records that at existed at the time of my request in a manner likely to locate all responsive records. BUMED has been advised to preserve all potentially responsive records and all records of any searches until judicial review. 5. I am appealing that, in addition to BUMED, responsive record were in the possession of DOD or one of its components at the time of my request. DOD, DON, BUMED conducted no searches for these records. 6. I am appealing that the Agency has improperly denied portions of my request under 5 U.S.C. 552(b)(6). 7. Please see and address as part of my appeal, the appellate authority's coordination with ODCMO regarding my correspondence seeking (prior to this appeal) DOD's position regarding Exemption 6. ....

## Yost, Adam B LCDR OJAG, Code 14

---

**From:** Yost, Adam B LCDR OJAG, Code 14  
**Sent:** Thursday, October 19, 2017 12:30  
**To:** Winston, Wendy A CIV OJAG, CODE 14  
**Subject:** Follow-up emails for Hammond, Buckovetz, and Christensen  
**Signed By:** adam.yost@navy.mil

Wendy,

Please reach out to the respective IDAs for the Hammond (b)(6) and (b)(6) appeals and let them know we need to get their input (all are beyond the 10 business days) - cc me on the email and click the 'high importance' button.

Thanks!

V/r,

Adam B. Yost  
LCDR, JAGC, USN  
General Litigation (Code 14)  
Office of the Judge Advocate General  
Phone: (202) 685-5398  
Email: adam.yost@navy.mil  
SIPR: adam.yost@navy.smil.mil

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DEPARTMENT OF THE NAVY  
BUREAU OF MEDICINE AND SURGERY  
7700 ARLINGTON BOULEVARD  
FALLS CHURCH, VA 22042

IN REPLY REFER TO  
5720/F17-073  
Ser M00JE/17UM00J0222  
October 19, 2017

From: Chief, Bureau of Medicine & Surgery  
To: Assistant to the General Counsel

Subj: FOIA APPEAL IN THE CASE OF MR. ROBERT HAMMOND

Ref: (a) 5 USC § 552 Freedom of Information Act (FOIA)  
(b) 32 CFR § 701 et. Seq.  
(c) SECNAV Instruction 5720.42F

Encls: (1) Mr. Hammond's request  
(2) BUMED's interim response to Mr. Hammond  
(3) BUMED's final response to Mr. Hammond with attachments, redacted  
(4) Responsive documents, unredacted

(b) (5)

A large black rectangular redaction box covers the majority of the page content, starting below the "Encls:" list and extending to the bottom of the page. The text "(b) (5)" is printed in white at the top center of this redacted area.



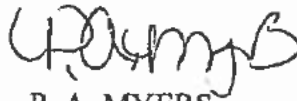
5720/F17-073  
Ser M00JE/17UM00J0222  
October 19, 2017

(b) (5)



6. If you have questions, my point of contact is Ms. Della W. Garcia, who may be contacted at (b) (6) @mail.mil or (b) (6)

Sincerely,



P. A. MYERS  
Captain  
Judge Advocate General's Corps  
United States Navy  
Staff Judge Advocate  
By direction of the Chief,  
Bureau of Medicine and Surgery

## **Yost, Adam B LCDR OJAG, Code 14**

---

**From:** Yost, Adam B LCDR OJAG, Code 14  
**Sent:** Monday, October 23, 2017 7:54  
**To:** Inch, Adam E LCDR OJAG, Code 14  
**Subject:** RE: FOIA  
**Signed By:** adam.yost@navy.mil

Adam,

Thanks for the email...regarding the below, no action required at all from you as for

1. I've already approved all of these - Wendy and I did a complete housecleaning of FOIA Online last week - apparently, I have the ability to close out your, Wendy, and anyone else's final tasks, so those should all be good to go - no action;
2. Finished the first (Ferguson, he's dropping the appeal), working on 2nd/3rd issues right now

Thanks man - you're free!

V/r,  
Adam

Adam B. Yost  
LCDR, JAGC, USN  
General Litigation (Code 14)  
Office of the Judge Advocate General  
Phone: (202) 685-5398  
Email: adam.yost@navy.mil  
SIPR: adam.yost@navy.smil.mil

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-----Original Message-----

**From:** Inch, Adam E LCDR OJAG, Code 14  
**Sent:** Monday, October 23, 2017 7:51 AM  
**To:** Yost, Adam B LCDR OJAG, Code 14  
**Subject:** FOIA

Good Morning Adam,

Just touching base on a few FOIA matters:

1. Wendy assigned me as final reviewer on a few appeals in FOL. I will close those out, but just FYI. (2017-008235; 2017-009418; 2016-000207; 2016-000210)

2. I received some emails regarding FOIA (list follows). Wendy was copied, but I just want to ensure that info made it through to you and there is no action for me:

- (b)(6) appeal of FOIA request to NAVIG
- SECNAV FOIA instruction chop via taskers (you were copied so I assume there is nothing for me)
- BUMED records responsive to Hammond (Wendy acknowledged receipt so there should be nothing for me)

Very Respectfully,  
Adam

**Yost, Adam B LCDR OJAG, Code 14**

---

**From:** Yost, Adam B LCDR OJAG, Code 14  
**Sent:** Tuesday, October 31, 2017 10:18  
**To:** Lattin, Grant E CIV OJAG, CODE 14  
**Cc:** (b) (6) CDR OJAG, Code 14; Winston, Wendy A CIV OJAG, CODE 14  
**Subject:** Hammond FOIA appeal  
**Signed By:** adam.yost@navy.mil

Sir,

The Hammond letter and associated enclosures are ready for your review here:

Z:\JAG 14\FOIA\Cases\Hammond DON-NAVY-2018-000464\Code 14 decision letter and enclosures

(b) (5)



Please let me know if you have any questions.

Our response is due on Thursday.

V/r,  
Adam

Adam B. Yost  
LCDR, JAGC, USN  
General Litigation (Code 14)  
Office of the Judge Advocate General  
Phone: (202) 685-5398  
Email: adam.yost@navy.mil  
SIPR: adam.yost@navy.smil.mil

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**Yost, Adam B LCDR OJAG, Code 14**

---

**From:** Lattin, Grant E CIV OJAG, CODE 14  
**Sent:** Tuesday, October 31, 2017 14:37  
**To:** Yost, Adam B LCDR OJAG, Code 14  
**Cc:** (b) (6) CDR OJAG, Code 14; Winston, Wendy A CIV OJAG, CODE 14  
**Subject:** RE: Hammond FOIA appeal  
**Signed By:** (b) (6) @navy.mil

Done. Thx.

-----Original Message-----

**From:** Yost, Adam B LCDR OJAG, Code 14  
**Sent:** Tuesday, October 31, 2017 10:18 AM  
**To:** Lattin, Grant E CIV OJAG, CODE 14  
**Cc:** (b) (6) CDR OJAG, Code 14; Winston, Wendy A CIV OJAG, CODE 14  
**Subject:** Hammond FOIA appeal

Sir,

The Hammond letter and associated enclosures are ready for your review here:

Z:\JAG 14\FOIA\Cases\Hammond DON-NAVY-2018-000464\Code 14 decision letter and enclosures

(b) (5)



Please let me know if you have any questions.

Our response is due on Thursday.

V/r,  
Adam

Adam B. Yost  
LCDR, JAGC, USN  
General Litigation (Code 14)  
Office of the Judge Advocate General  
Phone: (202) 685-5398  
Email: adam.yost@navy.mil  
SIPR: adam.yost@navy.smil.mil

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**Yost, Adam B LCDR OJAG, Code 14**

---

**From:** Winston, Wendy A CIV OJAG, CODE 14  
**Sent:** Tuesday, October 31, 2017 16:14  
**To:** usn.ncr.bumedfchva.mbx.nmra-navy-str@mail.mil  
**Cc:** Yost, Adam B LCDR OJAG, Code 14  
**Subject:** Final disposition ICO Mr. Robert Hammond DON-NAVY-2018-000464  
**Attachments:** Hammond 2018-000464 final ltr.pdf  
**Signed By:** (b) (6) @navy.mil

Good Afternoon,

Attached please find the final disposition ICO Mr. Robert Hammond; original request number DON-NAVY-2017-009256 (F17-03).

Thank you and have a great day!

Very respectfully,

Wendy A. Winston  
Office of the Judge Advocate General  
General Litigation Division (Code 14)  
1322 Patterson Ave, SE, Ste 3000  
Washington Navy Yard, DC 20374

(b) (6)

**Yost, Adam B LCDR OJAG, Code 14**

---

**From:** Winston, Wendy A CIV OJAG, CODE 14  
**Sent:** Tuesday, October 31, 2017 16:15  
**To:** Julka, Christopher A CIV DON, CIO  
**Cc:** Yost, Adam B LCDR OJAG, Code 14  
**Subject:** Final disposition ICO Mr. Robert Hammond DON-NAVY-2018-000464  
**Attachments:** Hammond 2018-000464 final ltr.pdf  
**Signed By:** (b) (6) @navy.mil

Good Afternoon,

Attached please find the final disposition ICO Mr. Robert Hammond; original request number DON-NAVY-2017-009256 (F17-03).

Thank you and have a great day!

Very respectfully,

Wendy A. Winston  
Office of the Judge Advocate General  
General Litigation Division (Code 14)  
1322 Patterson Ave, SE, Ste 3000  
Washington Navy Yard, DC 20374

(b) (6)



## **Yost, Adam B LCDR OJAG, Code 14**

---

**From:** Winston, Wendy A CIV OJAG, CODE 14  
**Sent:** Tuesday, October 31, 2017 16:15  
**To:** Patterson, Robin L CIV OPNAV, DNS-36; Strong, Richard R CIV OPNAV; (b) (6)  
(b) (6) CIV OPNAV, DNS-36L  
**Cc:** Yost, Adam B LCDR OJAG, Code 14  
**Subject:** Final disposition ICO Mr. Robert Hammond DON-NAVY-2018-000464  
**Attachments:** Hammond 2018-000464 final ltr.pdf  
**Signed By:** (b) (6) @navy.mil

Good Afternoon,

Attached please find the final disposition ICO Mr. Robert Hammond; original request number DON-NAVY-2017-009256 (F17-03).

Thank you and have a great day!

Very respectfully,

Wendy A. Winston  
Office of the Judge Advocate General  
General Litigation Division (Code 14)  
1322 Patterson Ave, SE, Ste 3000  
Washington Navy Yard, DC 20374

(b) (6)

**Yost, Adam B LCDR OJAG, Code 14**

---

**From:** Yost, Adam B LCDR OJAG, Code 14  
**Sent:** Friday, November 03, 2017 9:16  
**To:** (b) (6) @mail.mil  
**Subject:** FW: Final disposition ICO Mr. Robert Hammond DON-NAVY-2018-000464  
**Attachments:** Hammond 2018-000464 final ltr.pdf  
**Signed By:** adam.yost@navy.mil

V/r,

Adam B. Yost  
LCDR, JAGC, USN  
General Litigation (Code 14)  
Office of the Judge Advocate General  
Phone: (202) 685-5398  
Email: adam.yost@navy.mil  
SIPR: adam.yost@navy.smil.mil

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-----Original Message-----

**From:** Winston, Wendy A CIV OJAG, CODE 14  
**Sent:** Tuesday, October 31, 2017 4:14 PM  
**To:** usn.ncr.bumedfchva.mbx.nmra-navy-str@mail.mil  
**Cc:** Yost, Adam B LCDR OJAG, Code 14  
**Subject:** Final disposition ICO Mr. Robert Hammond DON-NAVY-2018-000464

Good Afternoon,

Attached please find the final disposition ICO Mr. Robert Hammond; original request number DON-NAVY-2017-009256 (F17-03).

Thank you and have a great day!

Very respectfully,

Wendy A. Winston

Office of the Judge Advocate General  
General Litigation Division (Code 14)  
1322 Patterson Ave, SE, Ste 3000  
Washington Navy Yard, DC 20374  
(b) (6)

**Yost, Adam B LCDR OJAG, Code 14**

---

**From:** Inch, Adam E LCDR OJAG, Code 14 <adam.inch@navy.mil>  
**Sent:** Thursday, October 05, 2017 11:53  
**To:** Winston, Wendy A CIV OJAG, CODE 14  
**Cc:** Yost, Adam B LCDR OJAG, Code 14  
**Subject:** FW: [Non-DoD Source] Appeal ,DON-NAVY-2017-009256; also, BUMED F17-073 Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports  
**Attachments:** Appeal DON 17D FY 2013 Quarterly PA Reports.w attachments.pdf  
**Signed By:** adam.inch@navy.mil

Wendy,

New appeal from Mr. Hammond received yesterday. Please process accordingly.

Very Respectfully,  
Adam

Adam E. Inch  
LCDR, JAGC, USN  
General Litigation (Code 14)  
Office of the Judge Advocate General  
Phone: (202) 685-5452  
NIPR: adam.inch@navy.mil  
SIPR: adam.inch@navy.smil.mil

-----Original Message-----

**From:** Lattin, Grant E CIV OJAG, CODE 14  
**Sent:** Thursday, October 05, 2017 9:29 AM  
**To:** Inch, Adam E LCDR OJAG, Code 14; Yost, Adam B LCDR OJAG, Code 14  
**Cc:** (b) (6) CDR OJAG, Code 14  
**Subject:** FW: [Non-DoD Source] Appeal ,DON-NAVY-2017-009256; also, BUMED F17-073 Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports

Looks like we have a new appeal from Mr. Hammond.

Grant Lattin  
Director, General Litigation Division  
OJAG (Code 14)  
(b) (6)

-----Original Message-----

**From:** (b) (6) @aol.com [mailto:(b) (6) @aol.com]  
**Sent:** Thursday, October 05, 2017 9:14 AM  
**To:** Lattin, Grant E CIV OJAG, CODE 14; (b) (6) @navy.mil  
**Cc:** Faison, Clinton F RADM OPNAV (b) (6) @mail.mil  
**Subject:** [Non-DoD Source] Appeal ,DON-NAVY-2017-009256; also, BUMED F17-073 Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports

Appeal of FOIA Request – Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports

My Personal Reference Number: FOIA DON 17-D

DON Assigned Agency FOIA Case Number: DON-NAVY-2017-009256; also, BUMED F17-073

---

From: DONFOIA-PA@navy.mil  
To: (b) (6) @aol.com  
Sent: 10/5/2017 8:57:19 AM Eastern Standard Time  
Subject: FOIA Request DON-NAVY-2018-000111 Submitted

This message is to confirm your request submission to the FOIAonline application: View Request  
<<https://foiaonline.regulations.gov:443/foia/action/public/view/request?objectId=090004d28162ef5f>> . Request information is as follows:

\* Tracking Number: DON-NAVY-2018-000111

\* Requester Name: robert hammond

\* Date Submitted: 10/05/2017

\* Request Status: Submitted

\* Description: This is an appeal of DON Assigned Agency FOIA Case Number: DON-NAVY-2017-009256; also, BUMED F17-073. Entering here to ensure that is electronically recorded, which has been problematic in the past. . Appeal of FOIA Request – Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports . Basis for Appeal. 1. I am appealing that the Records that I am seeking were in the possession of BUMED at the time that I sought them in my Request. 2. See FOIA Request at Enclosure 1. 3. See also and address as part of this appeal the questions for Mr (b) (6) (b) (6) at Enclosure 3, noting that offices are not persons (and office designations can change over time). Those questions for Mr. (b) (6) are, quote: a. With respect, do you personally have knowledge of responsive records that existed at the time of my request that were not released? b. With respect, do you personally have knowledge of responsive records that were destroyed subsequent to my request? c. With respect, do you personally have knowledge of any Privacy Act Complaints that were not reported? d. With respect, do you recall the details of our telephone conversations? 4. I am appealing that BUMED did not conduct an adequate search for responsive records that at existed at the time of my request in a manner likely to locate all responsive records. BUMED has been advised to preserve all potentially responsive records and all records of any searches until judicial review. 5. I am appealing that, in addition to BUMED, responsive record were in the possession of DOD or one of its components at the time of my request. DOD, DON, BUMED conducted no searches for these records. 6. I am appealing that the Agency has improperly denied portions of my request under 5 U.S.C. 552(b)(6). 7. Please see and address as part of my appeal, the appellate authority's coordination with ODCMO regarding my correspondence seeking (prior to this appeal) DOD's position regarding Exemption 6. ....

=====

Robert Hammond

(b) (6)

(b) (6) @aol.com

October 5, 2017

Office of the Judge Advocate General

General Litigation Division (Code 14)

1322 Patterson Ave., SE, Suite 3000

Washington Navy Yard, DC 20374-5066

Via; <https://foiaonline.regulations.gov>

Subject: Appeal of FOIA Request – Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports

My Personal Reference Number: FOIA DON 17-D

DON Assigned Agency FOIA Case Number: DON-NAVY-2017-009256; also, BUMED F17-073

References: (a) The Freedom of Information Act (FOIA)

(b) The Privacy Act

(c) CFR 164.526

(d) DoD 5700.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program

(e) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation

(e) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011: "Your Right to Federal Records" (see <http://publications.usa.gov/USAPubs.php?PubID=6080> <<http://publications.usa.gov/USAPubs.php?PubID=6080>> )

(g) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program

(h) Department of Justice Freedom of Information Act Guide, May 2004 at Exemption 6  
<http://www.justice.gov/oip/foia-guide-2004-edition-exemption-6>

(i) GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act

Dear Sir:

This appeal is submitted under the references above for my FOIA request at Enclosure 1. The Agency's reply is at Enclosure 2.

My correspondence to Navy BUMED, including Vice Admiral Clinton F. Faison (b) (6) @mail.mil), and Admiral Terry. J. Moulton (b) (6) @mail.mil), is at enclosure 3. My correspondence to the DOD Office of the Deputy Chief Management Officer seeking, with deep respect and appreciation, the DOD policy regarding the (b)(5) exemption is at enclosure 4

This appeal will be timely for judicial review within twenty working days. Please preserve all records for judicial review. There are also other avenues for redress, particularly in the event that responsive records were deleted subsequent to my request.

BACKGROUND. Pursuant to 42 U.S.C. 2000ee-1, DOD submits Quarterly (now semi-annual) Privacy Reports to Congress. The DOD report is consolidated and submitted by the Defense Privacy and Civil Liberties Office (DPCLO). FY 2014 and later reports may be found at <http://dpcl.d.defense.gov/Reports>.

#### Records Sought Under the FOIA.

"I am respectfully seeking all of the sub-unit/sub-element reports input submissions to Navy BUMED for the four FY 2013 Quarterly Privacy Act Reports, including the forwarding correspondences thereof (whether by email, fax or other) and any attachments. FY 2013 began on October 1, 2012 and ended on September 30, 2013.

I am also seeking any FY 2013 data call emails governing reporting.

Mr. (b) (6) is in possession of these records, [as well as others in DOD].

I am also requesting that a copy of this FOIA Request (which is an agency record) be included as a responsive record integral to my Request."

Basis for Appeal.

1. I am appealing that the Records that I am seeking were in the possession of BUMED at the time that I sought them in my Request.

2. See FOIA Request at Enclosure 1.

3. See also and address as part of this appeal the questions for Mr. (b) (6) at Enclosure 3, noting that offices are not persons (and office designations can change over time). Those questions for Mr. (b) (6) are, quote:

a. With respect, do you personally have knowledge of responsive records that existed at the time of my request that were not released?

b. With respect, do you personally have knowledge of responsive records that were destroyed subsequent to my request?

c. With respect, do you personally have knowledge of any Privacy Act Complaints that were not reported?

d. With respect, do you recall the details of our telephone conversations?

4. I am appealing that BUMED did not conduct an adequate search for responsive records that at existed at the time of my request in a manner likely to locate all responsive records. BUMED has been advised to preserve all potentially responsive records and all records of any searches until judicial review.

5. I am appealing that, in addition to BUMED, responsive record were in the possession of DOD or one of its components at the time of my request. DOD, DON, BUMED conducted no searches for these records.

6. I am appealing that the Agency has improperly denied portions of my request under 5 U.S.C. 552(b)(6).

7. Please see and address as part of my appeal, the appellate authority's coordination with ODCMO regarding my correspondence seeking (prior to this appeal) DOD's position regarding Exemption 6. The appellate authority's final determination becomes the DOD position with respect to this appeal in any further proceedings.

8. BUMED, a component of DON and DOD, is improperly redacting under exemption (b)(6):

a. Agency names;

b. Ordinary building names;

c. Military Treatment Facility names;

d. Privacy Officer names.

9. I am appealing that the Agency did not provide records in the requested format as single PDF file by return email.

10. I am appealing that the Agency did not return a copy of my Request as part of their initial determination letter, which is a record sought in my Request.

Appellate Authority Action Requested. I am asking that:

(1) each of the elements of the basis of my appeal be addressed separately;



- (2) each element of my appeal be sustained;
- (3) all records of agency searches and FOIA case files be brought fully into your appeal files;
- (4) my FOIA request be remanded back to the Agency for direct reply to me; and that,
- (5) I be granted new appellate rights following a subsequent reply by the Agency.

With my respect,

Robert Hammond

Enclosures:

1. Hammond FOIA Request DON 17-D; Component Input to BUMED; FY 2013 Quarterly Privacy Act Reports
2. Agency Initial Determination Letter
3. Hammond email thread of Wed, Oct 4, 2017 6:36 am to (b) (6) Vice Admiral Clinton F. Faison and Admiral Terry. J. Moulton (and others in that thread)
4. Hammond email of Wed, Oct 4, 2017 3:26 pm to ODCMO seeking policy guidance on Exemption 6, with copies to Vice Admiral Clinton F. Faison (BUMED), Admiral Terry. J. Moulton (BUMED), Vice Admiral Rachael C. Bono (DHA) and Mr. (b) (6) (DHA) and others

**Yost, Adam B LCDR OJAG, Code 14**

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**From:** Winston, Wendy A CIV OJAG, CODE 14 - (b) (6) @navy.mil>  
**Sent:** Thursday, October 05, 2017 14:46  
**To:** (b) (6) @aol.com  
**Cc:** Inch, Adam E LCDR OJAG, Code 14  
**Subject:** Acknowledgment letter ICO FOIA Appeal number DON-NAVY-2018-000111  
**Attachments:** Hammond Ack Ltr1.doc  
**Signed By:** (b) (6) @navy.mil

Good Afternoon Mr. Hammond,

Please the attached acknowledgment letter ICO previous request number DON-NAVY-2017-009256 (F17-073). Thanks!

Thank you and have a great day!

Very respectfully,

Wendy A. Winston  
Office of the Judge Advocate General  
General Litigation Division (Code 14)  
1322 Patterson Ave, SE, Ste 3000  
Washington Navy Yard, DC 20374  
(202)

**Yost, Adam B LCDR OJAG, Code 14**

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**From:** Garcia, Della W CIV USN BUMED FCH VA (US) (b) (6) @mail.mil>  
**Sent:** Thursday, October 05, 2017 15:28  
**To:** Winston, Wendy A CIV OJAG, CODE 14  
**Cc:** Inch, Adam E LCDR OJAG, Code 14 (b) (6)  
**Subject:** RE: FOIA Appeal ICO Mr. Robert Hammond DON-NAVY-2018-000111

Good afternoon.

I received your email and will get the items to you as quickly as possible--certainly by the 19th.

In the meantime, please give me a call at the number below or on my cell at (b) (6) if you need anything else.

v/r Della

Della W. Garcia  
FOIA/PA Paralegal Specialist  
Bureau of Medicine and Surgery  
Medical-Legal Affairs Office  
7700 Arlington Blvd Ste 5124  
Falls Church, VA 22042-5124

COMM (b) (6)

(b) (6) @mail.mil

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-----Original Message-----

**From:** Winston, Wendy A CIV OJAG, CODE 14 [mailto:(b) (6) @navy.mil]  
**Sent:** Thursday, October 05, 2017 2:40 PM  
**To:** Garcia, Della W CIV USN BUMED FCH VA (US)  
**Cc:** Inch, Adam E LCDR USN NAVCIVLAWSUPPACT DC (US)  
**Subject:** FOIA Appeal ICO Mr. Robert Hammond DON-NAVY-2018-000111

Good Afternoon,

We just received a FOIA appeal from Mr. Robert Hammond; original request number DON-NAVY-2017-009256 (F17-073). Could you please provide to us, by 19 Oct 2017.

- 1) A brief memo justifying the withholding of responsive information also include the search that was conducted.
- 2) A copy of any correspondence between your command and the requester (both emails and written correspondence).
- 3) A copy of all responsive records redacted and unredacted.

Thank you and have a great day!

Very respectfully,

Wendy A. Winston  
Paralegal Specialist (FOIA/PA) Coordinator  
Office of the Judge Advocate General  
General Litigation Division (Code 14)  
1322 Patterson Avenue, SE, STE 3000  
Washington Navy Yard, DC 20374

TEL: (b) (6)  
DSN: (b) (6)

**Yost, Adam B LCDR OJAG, Code 14**

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**From:** Winston, Wendy A CIV OJAG, CODE 14 (b) (6) @navy.mil>  
**Sent:** Thursday, October 19, 2017 16:25  
**To:** Garcia, Della W CIV USN BUMED FCH VA (US)  
**Cc:** Inch, Adam E LCDR OJAG, Code 14; Yost, Adam B LCDR OJAG, Code 14  
**Subject:** RE: FOIA Appeal ICO Mr. Robert Hammond DON-NAVY-2018-000111  
**Signed By:** (b) (6) @navy.mil

Good Afternoon Ms. Garcia,

I am in receipt of the AMRDEC files. Thanks!

v/r  
Wendy A. Winston

-----Original Message-----

**From:** Garcia, Della W CIV USN BUMED FCH VA (US) [mailto:(b) (6) @mail.mil]  
**Sent:** Thursday, October 19, 2017 1:16 PM  
**To:** Winston, Wendy A CIV OJAG, CODE 14  
**Cc:** Inch, Adam E LCDR OJAG, Code 14  
**Subject:** RE: FOIA Appeal ICO Mr. Robert Hammond DON-NAVY-2018-000111

Good afternoon.

I have forwarded the requested documentation to you at (b) (6) @navy.mil via AMRDEC.

Please let me know if you need anything else.

v/r Della

Della W. Garcia  
FOIA/PA Paralegal Specialist  
Bureau of Medicine and Surgery  
Medical-Legal Affairs Office  
7700 Arlington Blvd Ste 5124  
Falls Church, VA 22042-5124

COMM (b) (6)

(b) (6) @mail.mil

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Cc: Inch, Adam E LCDR USN NAVCIVLAWSUPPACT DC (US)  
Subject: FOIA Appeal ICO Mr. Robert Hammond DON-NAVY-2018-000111

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- 1) A brief memo justifying the withholding of responsive information also include the search that was conducted.
- 2) A copy of any correspondence between your command and the requester (both emails and written correspondence).
- 3) A copy of all responsive records redacted and unredacted.

Thank you and have a great day!

Very respectfully,

Wendy A. Winston  
Paralegal Specialist (FOIA/PA) Coordinator  
Office of the Judge Advocate General  
General Litigation Division (Code 14)  
1322 Patterson Avenue, SE, STE 3000  
Washington Navy Yard, DC 20374

TEL: (b) (6)  
DSN: (b) (6)